Touching the

Fundamentall Lawes,

Or Politique Conſtitution of this Kingdome, The KINGS Negative Voice, and The Power of PARLIAMENTS.

To which is annexed,

The priviledge and power of the Parliament touching The MILITIA.

LONDON

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TOUCHING FVNDAMENTALL LAVVS, AND The KINGS Negative Voice.

FUndamentall Laws are not (or at least need not be) any written agreement like Peare-stones between King and People, the King himselfe being a part (not party) in those Laws, and the Common-wealth not being like a Corporation treated by Charter, but treating it selfe. But the fundamentall Law or Laws is a setling of the laws of nature and common equity (by common consent) in such a forme of Polity and Government, as that they may be administred amongst us with honour and safety. For the first of which therefore, we are governed by a King: and for the second, by a Parliament, to oversee and take order that that honourable trust that is put into the hands of the King for the dignity of the Kingdome, be rightly executed, and not abused to the alteration of the Politique Constitution taken up and approved, or to the destruction of that, for whose preservation it was ordered and intended. A principall part of which honour, is that royall assent he is to give for the enacting of such good Laws as the people shal chuse, for they are first to consult their own safety and welfare, and then he who is to be intrusted with it, is to give an honourable confirmation to it, and so to put an Impresse of Majesty and Royall authority upon it.

Fundamentall Laws then are not things of capitulation between King and people, as if they were Forrainers and Strangers one to another, (nor ought they or any other Laws so to be, for then the King should governe for himselfe, not for his people) but they are things of constitution, treating such a relation, and giving such an existence and being by an externall polity to King and Subjects, as Head and Members, which constitution in the very being of it is a Law held

forth with more evidence, and written in the very heart of the Republique, farre firmlyer then can be by pen and paper, and in which sense we owe our Allegiance to the King as Head, (not onely by power, but influence) and so part of the constitution, not as a party capitulating for a prerogative against or contrary to it, which whosoever seeks to set up, or side with, doe break their Allegiance, and rebell against the State, going about to deprive the King of his juridicall and lawfull authority, conferred upon him by the constitution of this State, under the pretence of investing him with an illegall and unconstitutive power, whereupon may follow this grand inconvenience, The withdrawment of His peoples Allegiance, which, as a Body connected with the Head by the constitution of this Kingdome, is owing to him; his person in relation to the body, as the enlivening and quickning head thereof, being sacred and taken notice of by the laws in that capacity, and under that notion is made inviolate.

And if it be conceived that Fundamentall Laws must needs be only extant in writing, this is the next way to bring all to confusion, for then by the same rule the King bids the Parliament produce those laws that fundamentally give them their being, priviledges & power, (*Which by the way is not like the power of inferiour Courts, that are springs of the Parliament, dealing betweene party and party, but unanswerable to their trust, this Court being it selfe Fundamentall and Paramount, comprehending Law and Equity, and being intrusted by the whole for the whole, is not therefore to be circumscribed by any other Laws which have their being from it, not it from them, but onely by that Law which at first gave it its being, to wit,* Salus populi) By the same rule I say the Parliament may also intreat the King to produce those Laws that fundamentally give him his being, power and honour. Both which must therefore be determined, not by laws, for they themselves are laws, yea the most supreame and fundamentall law, giving law to Laws themselves, but by the received constitution or polity, which they themselves are; and the end of their constitution is the Law or rule of their power, to wit, An honourable and safe Regiment of the Common-wealth, which two whosoever goeth about to divide the one of them from the other, breaks the fundamentall constitutive law or laws and polity of this Kingdome, that ordinance of man which we are to submit unto; nor can or ought any Statute or written law whatsoever, which is of later Edition and inferiour Condition, being but an off-spring of this race, be interpreted or brought in Plea, against this primary and radicall constitution, without guilt of the highest Treason and destructive

ctive enmity to the Publique weale and polity, because by the very onstitution of this Kingdome, all laws or interpretation of laws tending to confusion or dissolution, are ipso facto void. In this case we may allude and say, That the Covenant which was 400. yeers before the Law, an after-Act cannot disanull it.

Ob. It may be objected, that this discourse seems to make our Government to be founded in Equity, not in Law, or upon that common rule of Salus populi, which is alike common to all Nations, as well as any: and so what difference?

Ans. The Fundamentall laws of England are nothing but the Common laws of Equity and Nature reduced into a particular way of policy, which policy is the ground of our title to them, and interest in them: For though it is true, that Nature hath invested all Nations in an equall right to the laws of Nature and Equity by a common bounty, without respect of persons, yet the severall models of externall Government and Policie renders them more or lesse capable of this their common right: For though they have an equall right in Nature to all the Laws of Nature and Equity, yet having fundamentally subjected themselves by their politique Constitutions unto a Regal servitude, by Barbarisme or the like they have thereby much disabled and divested themselves of that common benefit. But on the contrary, where the outward constitution or polity of a Republick is purposely framed for the confirming and better conserving this common right of Nature and Equity, (as in ours) there is not onely a common right, but also a particular and lawfull power joyned with this right for its maintenance and supportation. For whereas other people are without all supreame power, either of making laws or raising monies, both these bodies of supremacie being in the arbitrary hands onely of the Soveraigne Magistrate amongst many Nations, these with us are in the hands of the supreame Government, (not Governour) or Court of Judicature, to wit, the King and Parliament; here the people (like Freemen) give money to the King, he doth not take it; and offers Laws to be enacted, doth not receive them so: Now in such a constituted Kingdome, where the very Constitution its selfe is the fundamentall law of its owne preservation, as is this mixt Regiment of ours, consisting of King and Parliament, as Head and Body, comprehending Monarchie, Aristocracie, and Democracie; there the fundamentall laws are like fundamentall truths in these two properties: First, they are comprehended in a very little roome, to wit, honour and safety; and secondly, they have their influence in-

to all other inferiour Laws which are to be subjected to them, and correspondent with them, as lawfull children and naturall branches.

Ob. But in processe of time there are many written Laws which seem at least to contradict this Fundamentall Constitution, and are not they binding notwithstanding it?

Ans. The Constitution of this Kingdome which gave it its being, and which is the radicall and fundamentall law thereof, ought therefore to command in chiefe, for that it never yeelds up its authority to those inferiour laws, which have their being from it, nor ought they which spring from it tend to the destruction of it, but on the contrary, it is to derive its radicall virtue and influence into all succeeding laws, and they like branches are to make the root flourish, from whence they spring, with exhibiting the lively and fructifying virtue thereof, according to the nature and seasons of succeeding times; things incident in after-ages not being able to be fore-seen, and particularly provided for at the beginning, saving in the fundamentall law of Salus populi, politiquely established; nor can any laws growing out of that root, bear any other fruit, then such as the nature thereof dictates; for, for a particular branch to ruine the whole foundation by a seeming sense contrary to it, or differing from it, is very absurd; for then how can it be said, Thou bearest not the root, but the root thee? Laws must alwayes relish of, and drink in the constitution or polity where they are made; and therefore with us, the laws wherein the King is nominated, and so seems to put an absolute authority into his hands, must never so be construed, for that were with a breath to blow downe all the building at once; but the King is there comprehended and meant under a two-fold notion; First, as trusted, being the Head, with that power the Law conferd upon him, for a Legall, and not an absolute purpose, tending to an honourable preservation, not an unnaturall dissolution. Secondly, as meaning him juridically, not abstractly or personally, for so onely the Law takes notice of the King as a juridicall person; for till the Legislative power be absolutely in the King, so that laws come down from him to his people, and goe not up from them to him, they must ever be so interpreted: for as they have a juridicall being and beginning, to wit, in Parliament, so must they have a sutable execution and administration, to wit, by the Courts, and legall Ministers, under the Kings authority, which according to the constitution of this Kingdome, he can no more suspend for the good of his people, then the Courts can theirs; or if he doe, to the publique hazard, then have the Courts this advantage, that for publique preser-

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vation they may and must provide upon that principle, The King can doe no wrong, neither in withholding justice, nor protection from his people. So that then Salus populi being so principally respected and provided for, according to the nature of our constitution and polity, & so being Lex legum, or the rule of all laws branching thence, Then if any law doe by variation of times, violence of tyrannie, or misprision of Interpreters, vary therefrom, it is a bastard, and not a son, and is by the lawful parents either to be reduced or cast out, as gendring unto bondage and ruine of the inheritance, by attempting to erect an absolute and arbitrary Government. Nor can this equitable exposition of particular Statutes taken from the scope of the politique constitution be denyed without overthrow of just and legal Monarchy, (which ever tends to publique good and preservation) and the setting up of an unjust and illegall tyrannie, ruling, if not without law, yet by abused laws, turning them as conquered ordnance upon the people. The very Scripture it selfe must borrow from its scope and principles for explanation of particular places, else it will be abused (as it is through that default) unto Heresies. See we not how falsely Satan quoted true Scripture to Christ when he tempted him, onely by urging the letter without the equity, or true intention and meaning? We are to know and doe things verum verè, justum justè, else we neither judge with righteous judgement, nor obey with just obedience.

Q. But is not the Parliament guilty of exercising an arbitrary power, if their proceedings be not regulated by written laws, but by Salus populi?

Ans. For the Parliament to be bound up by written laws, is both destructive and absurd.

First, it is destructive, it being the Fundamental Court and Law, or the very Salus populi of England, and ordained, as to make laws, and see them executed, so to supply their deficiencie according to the present exigencie of things for publique preservation by the prerogative of Salus populi, which is universally in them, and but particularly in particular laws and statutes, which cannot provide against all future exigents, which the law of Parliaments doth, and therefore are not they to be limits to this. And it would yet be further destructive, by cutting the Parliament short of half its power at once, for it being a Court both of Law and Equity (as appears by the power of making laws, which is nothing but Equity reduced by common consent into Polity) when ever it is circumscribed by written laws, (which onely is the property of inferiour Courts) it ceaseth to be supreame, and divests

vests it selfe of that inherent and uncircumscribed power which Salus populi comprehends.

Secondly, as it is destructive, so also it is absurd; for the Legislative power which gives laws, is not to receive laws, saving from the nature and end of its owne constitution, which as they give it a being, so they endow it with Laws of preservation both of it selfe & the whole, which it representz.

I would not herein be misunderstood, as if the Parliament, when as it onely doth the office of inferiour Courts, judging between party & party, were not limited by written lawes: there I grant it is, because therein it only deales between *meum & tuum*, which particular written lawes can and ought to determin: so that its superlative and uncircumscribed power I intend only as relating to the Universe and the affaires thereof, wherein it is to walke by its fundamentall principles, not by particular precepts or Statutes, which are made by the Parliament, between King and people, not between people and Parliament: they are ordayned to be rules of Government to the King, agreeing with the liberty and property of the people, and rules of Obedience to the people without detainment of their freedome by the exercise of an illegall, usurped, and unconsented power, whereunto Kings (especially in hereditary Monarchies) are very prone, which cannot be suppoted by a Parliament, which is representatively the Publike, intrusted for it, which is like to partake and share with the Publick, being but so many private men put into authority *protempore*, by common consent, for common good.

Now the Parliament here by guilty of an Arbitrary Government, or is it destructive to the Petition of Right, when as in providing for publick weale, it observes not the letter of the law; first, because as aforesaid, that law was not made betweene Parliament and people, but by the people in Parliament betweene the King and them, as appears by the whole tenour of it, both in the complaining and praying parts, which wholly relate to the King. Secondly, because of the common consent, that in the representative Body (the Parliament) is given thereunto, wherein England in her Polity imitates Nature in her Instincts, who is wont to violate particular principles for publique preservation, as when light things descend, and heavy ascend, to prevent a vacuum: and thirdly, because of the equitable power which is inherent in a Parliament, and for publique good is to be acted above and against any particular Statute, or all of them: and fourthly, because the end of making that Law, to wit, the publique preservation,

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is fulfild in the breaking of it, which is lawfull in a Parliament that is chosen by the whole for the whole, and are themselves also of the body, though not in a king, for therein the Law saith, Better a mischeife then an inconuenience. But it may be objected, though it be not Arbitrary for the Parliament to goe against written law, yet is it not so when they go against the Kings consent, which the law, even the fundamentall law, supposeth in Parliamentary proceedings; This hath beene answered, that the King is juridically and according to the intention of the law in his Courts, so that what the Parliament consults for the publick good, That by oath, and the duty of his office, and nature of this polity he is to consent unto, and in case he do deny it, yet in the construction of the fundamentall law and constitution of this Kingdom, he is conceived to grant it, supposing the head not to be so unnaturall to the body that hath chosen it for good and not for evill.

But it will be answered, where is the Kings Negative Voice if the Parliament may proceed without his consent? I answer. That there is no known nor written law that gives him any; and things of that nature are willingly beleeved till they be abused, or with too much violence claimed. That his Majesty hath fundamentally a right of consent to the enacting of laws is true, which (as aforesaid) is part of that honourable trust constituted in him: And that this royall assent is an act of honour and not of absolute and negative power or prerogative, appeares by these following reasons.

First, by his oath at the Coronation mentioned in one of the Parliaments Declarations where he doth or should sweare to confirme and grant all such good lawes as his people *shall choose* to be observed, not *hath chosen*, for first, The word *concedis* in that oath were then unnecessary, the lawes formerly enacted being allready granted by foregoing Kings, and so they need no more *concession* or confirmation, else we must run upon this shelfe that all our laws die with the old King, and receive their being a new, by the new Kings consent. Secondly, Hereby the first and second clause in that interrogatory, *viz. Concedis iustas leges & permittas protegendas*, are confounded and doe but *idem repetere*; Thirdly, *Quas vulgus elegerit* implies onely the act of the people in a disjunctive sence from the act or consent of the King, but laws allready made have more then *quas vulgus elegerit*, they have also the royall consent too, so that that phrase cannot meane them wherein the act or consent of the King is allready involved.

Secondly, by the practise of requiring the royall assent even unto those very acts of subsidies which are granted to himselfe and for

his owne use, which it is supposed he will accept of, and yet Honoris gratia is his totall assent craved and contributed thereunto.

Thirdly, by the Kings not sitting in Parliament to debate and consult lawes, nor are they at all offered him by the Parliament to consider of, but to consent to, which yet are transmitted from one house to another, as well to consult as consent to, shewing thereby he hath no part in the consultory part of them (for that it belongs onely to the people in Parliament to discerne and consult their own good,) but he comes onely at the time of ensuing, bringing his Royall Authority with him, as it were to set the seale thereof to the Indenture allready prepared by the people, for the King is head of the Parliament in regard of his authority, not in regard of his reason or judgement, as if it were to be opposed to the reason or judgement of both houses (which is the reason both of King and Kingdome) and therefore do they as consult so also interpret lawes without him, supposing him to be a person replenished with honour and royall authority not skilled in lawes, nor to receive information either of law or councell in Parliamentary affaires from any, saving from that supreame court and highest councell of the King and Kingdome, which admits no counterpeize, being intrusted both as the wisest Councell and justest judicature.

Fourthly, either the choice of the people in Parliament is to be the ground and rule of the Kings assent, or nothing but his pleasure, and so all Bills though never so necessary for publique good and preservation, and after never so much paines and consultation of both houses may be rejected, and so they made meere cyphers, and we brought to that passe, as either to have no lawes, or such onely as come immediately from the King (who oft is a man of pleasure, and little seene in publicke affaires, to be able to judge) and so the Kingdomes great councell must be subordinated either to his meere will, and then what difference between a free Monarchy, and an absolute, saving that the one rules without Councell, and the other against it, or at the best but to a cabinet councell consisting commonly of men of private interests, but certainly of no publicke trust.

Ob. But if the King must consent to such lawes as the Parliament shall chuse ex nomine, they may then propound unreasonable things to him, as to consent to his own deposing, or to the lessning his own revenew, &c.

Ans. So that the issue is, whether it be fitter to trust the wisdome and integrity of our Parliament, or the will and pleasure of the King in this case of so great and publicke concernment. In a word,

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the King being made the fountaine of iuſtice and protection to his people by the fundementall lawes or conſtitution of this Kingdome, he is therefore to give life to ſuch acts and things as tend thereunto, which acts depend not upon his pleaſure, but though they are to receive their greater vigour from him, yet are they not to be ſuſpended at pleaſure by him, for that which at firſt was intended by the kingdome: for an honourable way of ſubſiſtence and adminiſtration muſt not be wreſted contrary to the nature of this Polity, (which is a free and mixt Monarchy and not an abſolute) to its deſtruction and confuſion, ſo that in caſe the King in his perſon ſhould decline his duty, the King in his courts are bound to performe it, where his authority properly reſides, for if he refuſe that honour which the republicke by its fundamentall conſtitution hath conferred upon him, and will not put forth the acts of it, for the end it was given him, viz. for the iuſtice and ſafety of his people, this hinders not but that they who have as fundamentally reſerved a power of being (wellbeing in their own handes by the concurrence of Parliamentary authority to the royall dignity, may thereby provide for their own ſubſiſtence, wherein is acted the Kings juridicall authority though his perſonall pleaſure be withheld, for his legall and juridicall power is included and ſuppoſed in the very being, and conſequently in the acts of Courts of iuſtice, whoſe being he may as well ſuſpend as their power of acting, for that without this is but a cypher, and therefore neither their being nor their acting ſo depend upon him, as not to be able to act and execute common iuſtice and protection without him, in caſe he deny to act with them, and yet both ſo depend upon him, as that he is bound both in duty and honour, by the conſtitution of this polity to act in them and they from him, ſo that (according to that axiome in law) the King can doe no wrong, becauſe his juridicall power and authority is allwayes to controle his perſonall miſcarriages.

Se Defendendo.

GOd and nature hath ordained Government for the preſervation of the governed. This is a truth ſo undeniable, as that none will gainſay it, ſaving in practice, which therefore being taken for granted, it muſt needs follow that to what end Government was ordained, it muſt bee maintained, for that it is not in the power of particular perſons or communities of men to depart with ſelfe preſervation by any covenant whatſoever, nor ought it to bee exacted by any ſuperiours from their inferiours, either by oath or edict, becauſe neither oathes nor ſtatutes are obligatory further then they agree with the righteous Laws of God and nature; further then ſo they ought neither to be made nor kept.

Let it be ſuppoſed then for argument ſake, that the *Militia* of the Kingdom, is in the power of the King, yet now as the caſe ſtands it is lawfull for the Parliament to reaſſume it, becauſe though they paſſed it into his hands, for the peoples preſervation, yet it was never intended that by it he might compaſſe their deſtruction, contrary to the Law of nature; whereby every man, yea every thing is bound to preſerve it ſelfe. And thuſmuch in effect is confeſſed at unawares, by the Author of the Reply to the Anſwer of the London Petition: who affirmeth, ſaying, *The King is inveſted with the ſole power of Training, Arraying, and Muſtering*, and then gives the reaſon, *becauſe it is moſt conſonant to reaſon, as well as grounded on Law, That he which is bound to protect, ſhould be able to compaſſe that end.* Which reaſon overthrows both his poſition and intention. 1. His poſition, for this is no reaſon why the ſole power of the *Militia* ſhould be in the hands of the King; *becauſe he is bound to protect*, except he were bound ſolely to protect, that is, without the counſel and advice of Parliament: but it hath beene reſolved that He is not ſole Judge of neceſſity, and therefore not ſole protector againſt it, but together with His Parliament, who conſequently ſhares in the power of the *Militia*. 2. It overthrows His intention, which is ſo to put the power of the *Militia* into the hands of the King, as to enable him to do what he wil with it, whenas yet he himſelf cannot but affirm, it is his to protect withall, ſo that when he ceaſeth to uſe it to its end, it ceaſeth to be in his power, or elſe let the man ſpeake plain, and ſay, it is His to deſtroy as well as to protect.

Ob. But the *Militia* is paſſed to the King, abſolutely without any condition of revocation expreſſed, or of limitation to circumſcribe the uſe whereunto it ought to be imployed.

1. *Anſ.* Laws of God and nature, neither are nor need to be expreſſed in contracts

contracts or edicts, for they are ever ſuppoſed to be ſupreme to humane ordinances, and to chalenge obedience in the firſt place, and other Laws ſo far onely as they are conſonant to them, though theſe Laws be further backed with Oathes and Proteſtations: As for inſtance, I give a man a ſword, and ſweare I will never take it from him; yet if he actually aſſault me, or it manifeſtly appeare he intends to cut my throat, or take my purſe with it, I may lawfully poſſeſſe my ſelfe of it again if opportunity ſerve, becauſe in ſuch agreements betwixt man & man, the laws of nature neither are nor can be exempted, but are neceſſarily implyed, ſtill to be of force, becauſe no bonds can lawfully invalid them, and *id ſolum poſſumus quod jure poſſumus.* But it may be asked how it appeares that the King intends to imploy the *Militia* to the deſtruction of his people. Why firſt becauſe He hath refuſed to hearken to the wholſome counſel of His Parliament, the repreſentative body, and the higheſt Court and Counſel of the Kingdom. 2 Becauſe, *è contrario*, he hearkens to the councels of notorious Papiſts and Malignants, men engaged againſt the publike good and welfare of this Kingdome, in a diametrall oppoſition, ſo that if they periſh it proſpereth, and if it proſper they periſh. 3. Becauſe hee hath had a deepe hand in contriving and plotting the ruine and extirpation of the Parliament, by ſecret and open violence, and in them of the whole Kingdome of whom they are the Epitome, and as the King is the head, ſo they are the heart. But further it may be replied, that the King hath promiſed to maintain Parliaments and governe by Law. *Anſ.* That is ſo far as he knowes his own heart, and as he can be maſter of himſelfe: He ſware the ſame at His Coronation, and promiſed as much when he granted the Petition of Right, but how they have beene kept God knowes, and we are not ignorant. It may be His Majeſty may meane as he ſpeakes, but 1. Temptations may change his minde, as it hath done too often, and as it did his that ſaid to the Prophet, Is thy ſervant a dog that he ſhould do ſuch things? and yet did them. The welfare of Kingdomes is not to be founded upon bare ſpontaneous promiſes, but reall contracts. 2. He himſelfe ſayes, he himſelfe is not skild in the Laws, and we have found it true, ſo that he muſt take information of them frō ſome body from his Parliament (that is his people that made them) he will not, and are any fitter to be Judges of the Law, then the higheſt Court; if they may be Judges that are delinquents to the Law, and Malignants againſt it, and have beene grievous oppreſſors of the People, even againſt the known Laws (ſo much cried up) we are like to have juſt Judges and righteous Lawyers.

2. *Anſ.* If the *Militia* be ſo abſolutely the Kings, as that all power of

defence and preſervation of our ſelves and our rights be taken from us, to what purpoſe do we ſtrive for liberty & property, and laws to confirm them? theſe are but imaginary things, if they have no hedg to fence them; If the *Militia* be for the King, let us burne the Statutes we have already, and ſave a labour of making more. No man would thinke it a good purchaſe to buy land, and when he hath paid his money to have it in the power of the ſeller, to take it from him by his ſword.

Ob. It is true that Kings are tied by oath, and legall contracts, to governe by *Laws*, and to maintain liberty and property to their people, which puts them under an obligation of conſcience to God, ſo that they are reſponſible to him for the breach of fidelity and duty, but not to the people who may minde them of their duty, but not compell them to it.

Anſ. This Objection hath two parts, Firſt, That Kings are onely reſponſible to God. 2. That Subjects muſt ſuffer wrong, but not by force maintain their right. To the firſt I anſwer. That if Kings be ſolely anſwerable to God, then contracts are in vaine, for they ſhall anſwer for all their arbitrary and unjuſt tyrannie over their people, though there were no contracts. That which makes us happier then other Nations, ſure is not this, that the King for the breach of his duty hath more to anſwer at the day of judgement then other Kings have, if that bee all wee have ſmall cauſe to joy in our priviledges, they are neither worth the blood that hath been ſhed for them, nor the money that hath beene paid for them. Secondly, Government muſt be conſidered under a twofold notion, divine and humane. The *Genus* which is government it ſelfe is divine, ſo that people are abſolutely bound to have government, but not bound to have an abſolute government, for the *ſpecies* or the *modus gubernandi* is humane, and therefore the Apoſtle ſayes, *Be ſubject to every ordinance of man*, that is, to every ſuch kinde of Government as your lot falls to be under, by the conſtitution of the Common-wealth you live in. Now Government being thus of a mixt natute, the Ordinance both of God and man, it is not onely ſubject to God but alſo to men, to be regulated, amended, and maintained by the people: for as it is Gods Ordinance for their good, ſo doth he give them liberty to provide it bee not abuſed to their hurt, ſo that when God ſhall put an opportunity into their hands, they ought to improve it to the ſetting of government up right, or the keeping of it ſo from apparent violations. There was a time when both Government and the manner of governing belonged to God, to wit, amongſt the Iſraelites, for to that people he was both a God of moralls and politiks, and therefore he tooke it ſo ill for them to uſurpe upon his right, as to deſire to change their government from

Judges

Judges to Kings, but this was a peculiar right he assumed over that particular people onely. To the second I answer thus. Every Subject taken *divisim*, and apart from the whole, is to suffer under abused authority, and to obey passively, rather then to breake union or cause confusion, but no Subject is bound to suffer by that which is not authority, as is the will of the Magistrate: If a Court of Justice should unjustly condemne a man, he is patiently to undergoe it, but if a Judge or the King himselfe should violently set upon him to kill him, he may defend himselfe; for the Ordinance of God and man both, is affixed to the office, and not unto the person, to the authority and not unto the will, so that the person acting out of office, and by his will may be resisted, though the ordinance may not. But the representative body of the Common-wealth, (which is all men conjunctim) they may not onely oppose the person and his will, but even the office and authority it selfe when abused, and are bound to it both in conscience to God when he gives them opportunity, and in discharging of their trust to them that imployed them. For first God calls to have the wicked removed from the Throne, and whom doth he call upon to doe it but upon the people (in case the King will not) or their trustees, for as he hath originally founded all authority in the people, so he expects a discharge of it from them for his glory, & the publike weale, which are the ends of Government, from which God and nature hath ordained it. Secondly, In discharge of their trust for the whole, for order sake, making them their representative actors, and putting that universall and popular authority, that is in the body of the people, and which (for the publike good and preservation) is above every man and all Laws, into their hands, they may expect and chalenge them by vertue of their stewardship, to provide for their safety and well being, against whomsoever shall oppose it, no one being above all, and therefore ought not that universall power, which by way of trust is conveyed over to the Parliament be betrayed into the hands of any by admitting or allowing any authority to be superiour, by tollerating abuses and usurpations, as if they had not power to regulate them.

FINIS.